

**IN THE ELEVENTH JUDICIAL CIRCUIT, STATE OF MISSOURI  
ST. CHARLES COUNTY  
CIRCUIT JUDGE DIVISION**

<b>REAL HOMES, INC.</b>	)	
	)	
Plaintiff,	)	Case No:
	)	
vs.	)	Div. No:
	)	
<b>CITY OF WENTZVILLE</b>	)	
Defendant	)	
	)	
Serve: Nick Guccione, Mayor of Wentzville	)	
310 W. Pearce Blvd	)	
Wentzville, MO 63385	)	

**PETITION FOR DAMAGES**

**COMES NOW**, Plaintiff, by and through counsel, and for his cause of action states as follows;

1. Plaintiff, Real Homes, Inc., is a Missouri corporation in good standing.
2. Defendant, City of Wentzville, is a government entity located in St. Charles County, Missouri.
3. Jurisdiction and venue are appropriate in the Circuit Court of Saint Charles County as the claims relate to real properties located in Saint Charles County, Missouri.
4. Plaintiff is the owner of real property located at 5442 Delaney Drive, Wentzville, Missouri and 7011 Whisper Creek Drive, Wentzville, Missouri.
5. The Defendant has an obligation to maintain the public streets of the City of Wentzville, Missouri.
6. Delaney Drive and Whisper Creek Drive are public streets within the City of Wentzville, Missouri.
7. Defendant has failed to maintain Delaney Drive and Whisper Creek Drive to prevent the movement of said public roads by what is commonly referred to as "street creep."



8. The movement of Delaney Drive and Whisper Creek Drive has caused structural damage to the improvements on Plaintiff's aforementioned real properties.
9. The structural damage has caused an ascertainable loss of money and property.
10. The acts of Defendant are under the color of State law.
11. This Petition is brought in accordance with 42 U.S.C. § 1983 in that Defendant has deprived Plaintiff of property rights without due process of law and have taken Plaintiff's property rights without compensation.
12. Plaintiff has suffered damages in excess of \$25,000.00.
13. Plaintiff is entitled to reasonable attorney's fees under § 1983.
14. Plaintiff has made multiple requests to Defendant to fix or mitigate the damages caused by the movement of Delaney Drive and Whisper Creek Drive.
15. Defendant has declined such requests.

WHEREFORE, Plaintiff Real Homes, Inc. prays for an order and judgment against Defendant the City of Wentzville and in favor of Plaintiff Real Homes, Inc. for actual damages, attorney's fee, costs, and such other relief and this Court may deem appropriate.

Respectfully submitted,

WESTERFELD LAW GROUP, LLC


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## IN THE 11TH JUDICIAL CIRCUIT COURT, ST. CHARLES COUNTY, MISSOURI

Judge or Division: DANIEL G PELIKAN	Case Number: 1711-CC00473	(Date File Stamp)
Plaintiff/Petitioner: REAL HOMES, INC.	Plaintiff's/Petitioner's Attorney/Address ANDREW A WESTERFELD 1242 JUNGERMANN RD SUITE A SAINT PETERS, MO 63376	
Defendant/Respondent: CITY OF WENTZVILLE	Court Address: 300 N 2nd STREET SAINT CHARLES, MO 63301	
Nature of Suit: CC Other Tort		

## Summons in Civil Case

The State of Missouri to: CITY OF WENTZVILLE	
310 W. PIERCE BLVD WENTZVILLE, MO 63385	Alias: SERVE: NICK GUCCIONE MAYOR OF WENTZVILLE
	<p><b>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</b></p> <p>_____ 5/16/2017 _____ /S/ Judy Zerr Date Clerk</p>
ST. CHARLES COUNTY	Further Information:

## Sheriff's or Server's Return

**Note to serving officer:** Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.

☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_ a person of the Defendant's/Respondent's family over the age of 15 years.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).

☐ other \_\_\_\_\_.

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

\_\_\_\_\_  
Printed Name of Sheriff or Server

\_\_\_\_\_  
Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

(Seal) Subscribed and sworn to before me on \_\_\_\_\_ (date).

My commission expires: \_\_\_\_\_ Date \_\_\_\_\_ Notary Public

## Sheriff's Fees

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ ( _____ miles @ \$. _____ per mile)
<b>Total</b>	\$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

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